

Copyright and related rights

December 2011

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Please note:

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This guidance greatly simplifies a complex subject, and covers aspects of UK law only. For more information see the bibliography or visit the website of the Intellectual Property Office at www.ipo.gov.uk .

If you need legal advice, you should consult a solicitor.

1. What is copyright?

Copyright is one of a group of 'intellectual property rights'. It gives the owner the right to control the use of certain kinds of 'work' which are the result of the author's skill or which have involved an investment of time, effort and/or money by the owner. Other intellectual property rights include patents, trademarks and design rights. Related intellectual property rights include moral rights and database right (see [section 8](#)).

Copyright is property only in a limited sense. It is like other property in that it may be bought and sold. On the other hand, the right lasts only for a limited (though quite long) time and there are liberties given to others to use the copyright material without the owner's permission.

Copyright arises automatically, as soon as a work is created. There is no requirement either to register the work or to claim copyright in it, though the use of the copyright symbol © together with the name of the author and the date are useful indicators.

2. What does copyright protect?

There are various categories of copyright work which can be protected. These include:

Literary works - these are written works, using letters, numbers or symbols. The name 'literary' does not mean that the work needs to have literary merit: a business letter qualifies just as much as a novel. Literary works also include reports, accounts, computer programs, lists, databases, timetables and poems.

Dramatic and musical works - these are works to be performed (for example, plays and choreography), and works of music alone (such as, the music of a song, but not the accompanying words).

Artistic works - these may be two-dimensional (such as maps, drawings, paintings and photographs) or three-dimensional (for example, sculptures, medals and seals). It is not normally necessary for a work to have artistic merit to qualify for protection.

Films - these include videos and DVDs. Films made before 1 June 1957 were not protected as films but as sequences of photographs. Fiction films made before this date are also protected as dramatic works.

Sound recordings - what is protected is the actual recording of sounds, not the work (such as a piece of music) that is recorded.

Typographical arrangements - this is the layout of a page. The right protects the effort involved in, for instance, creating the combination of columns, headlines, typefaces, images and advertisements on a newspaper page.

3. How long does copyright last?

Some of the standard terms for different kinds of work are set out below, though they are subject to variations depending on the circumstances. In all cases, copyright expires at midnight on 31 December of the final year. Some of the variations are dependent on the definition of 'publication' and 'available to the public'.

- A work has been 'published' if, with the approval of the copyright owner, multiple copies of it have been issued to the public or it has been made available to the public online.
- A work has been 'made available to the public' for the purposes of duration if, with the approval of the copyright owner, it has been given exposure to the public by, for example, being put online, performed, exhibited or played in public or by being published.

The standard term of copyright in literary, dramatic, musical and artistic works is 70 years from the end of the year following the death of the author. However, there are many variations (see [section 11](#)).

Note especially:

- there are special provisions for anonymous works, whose author is unknown
- the standard term never applies to works in Crown copyright; instead there are entirely separate provisions for them (see [section 12](#))
- literary, dramatic and musical works that were still unpublished when the current statute, the Copyright Designs and Patents Act 1988, came into force in 1989 will be in copyright until 2039 at the earliest – this is especially important in archives, where most material is classified as unpublished

The standard term of copyright in films is 70 years after the death of the last to die of the principal director, the authors of the screenplay and dialogue, and the composer of music especially written for the film. For films made before 1 June 1957, duration is the same as for the photographs comprising each frame, and in appropriate circumstances is also equivalent to dramatic works of that period.

The standard term of copyright in sound recordings is 50 years from the year of creation or of publication.

Copyright in a typographical arrangement expires 25 years after the year of publication.

For the duration of copyright in Crown copyright works see [section 7](#) and [section 12](#).

Copyright in literary, dramatic, musical and artistic works in Parliamentary copyright, whether published or unpublished, expires 50 years after the end of the year of creation. For other kinds of work, the standard terms apply.

4. Who owns copyright?

The first owner(s) of copyright will be:

the author - that is, the person who created the work and was responsible for its contents

the employer - if the work was produced by an employee in the course of employment. In this case, remember that duration is still normally dependent on the individual author's life

the owner of the negative - in the case of a photograph taken between 1 July 1912 and 31 July 1989

the producer and principal director jointly - in the case of a film

the producer of a sound recording - the person (or body) who initiated and financed the recording

the person who commissioned and paid for the work - in the case of some engravings, photographs and portraits commissioned before 1 August 1989

the publisher of a typographical arrangement

The present owner of any of these copyrights will often, but not always, be the direct descendant(s) or successor (such as a successor company) of the first owner. However,

copyright may be bequeathed to someone or to a body in a will or be assigned to someone or to a body by a document signed by the owner.

For ownership of Crown copyright works, see [section 7](#).

Parliamentary copyright, owned by the relevant House of Parliament, applies to an unpublished literary, dramatic, musical or artistic work of any date, and in any work (including a parliamentary Bill) published after 1 August 1989, that was created under the direction or control of either House of the Westminster Parliament. Bills, draft measures, proceedings (with some exceptions) and records of devolved legislatures in Scotland, Wales and Northern Ireland are covered by Parliamentary copyright and are owned by the relevant administrative body.

5. What does copyright stop me doing and how do I get permission?

The copyright owner has the right to control certain uses of a copyright work. The restricted uses are:

- copying - this includes making a manual copy (for example, a tracing or a transcript) as well as making an electronic copy (such as a photocopy or a scan)
- issuing copies to the public - this is how the statute defines conventional publication
- communication to the public - including via the internet and broadcasting over radio or TV
- performance - this includes normal performance (for example, performing a play or reading a speech), but also other forms of presentation (such as an exhibition). However, it does not apply to artistic works
- rental and lending - the difference between rental and lending is that rental is done for a profit
- adaptation - this includes translation and converting a computer program into another language

If you use a work in one or more of these ways you might be infringing the copyright. In that case you could be sued, which could result in a fine and liability for the copyright owner's costs as well as your own. In very serious cases you could also be prosecuted. If you authorise someone else

to do any of these things, and they infringe copyright, you could be held responsible for the infringement along with them.

If no exception (see [section 6](#)) allows you to do what you wish, you will need permission from the copyright owner. It can be very difficult to identify and trace a copyright owner, especially if the work is old.

The steps towards tracing a copyright owner are to:

1. **decide** whether the work is still in copyright
2. **identify and trace** the present copyright owner
3. **ask for permission** to do what you wish to do – remember also to seek permission for everything you might want to do with the copyrighted work in the future. This will make the process easier for both you and the copyright owner
4. **acknowledge the copyright**, give credit as appropriate to the author, the rights owner and the custodian, and pay any associated fees

Rights clearance can take a long time and can be expensive. Allow plenty of time and remember that the rights owner may say no, or may impose conditions and charge a fee. You are asking for something, so do not impose your own conditions or time limits on a rights owner. Assess the risks carefully if you fail to find the owner and decide still to go ahead.

In many cases rights clearance is handled by central licensing and rights organisations. These organisations represent the rights owners, issue licences and collect fees on their behalf, and distribute the income to them.

Licensing and reproduction rights organisations in the UK include:

- ▶ **Authors' Licensing and Collecting Society (ALCS)** representing authors
www.alcs.co.uk
- ▶ **Copyright Licensing Agency (CLA)** licensing on behalf of authors and publishers of published literary works
www.cla.co.uk
- ▶ **Design and Artists Copyright Society (DACS)** representing visual artists including photographers

www.dacs.org.uk

- ▶ **Newspaper Licensing Agency (NLA)** representing the publishers of newspapers and journals

www.nla.co.uk

- ▶ **PRS for Music** representing composers, songwriters and music publishers:

www.prsformusic.com

- ▶ **Publishers' Licensing Society (PLS)** representing publishers

www.pls.org.uk

Information about other licensing bodies may be obtained from the British Copyright Council

www.pls.org.uk

6. Limitations on and exceptions to copyright

The copyright owner's rights are not unlimited and once they have expired the copyright owner has no control at all.

You may use an 'insubstantial part' of a copyright work in any way you like. A substantial part is not defined, but can mean quite a small part if that is the essence or an important part of the whole. Anything up to perhaps 5% (or in a few cases even more) of the whole might be insubstantial, but less than that quantity could easily be substantial if it is qualitatively important. Mona Lisa's smile is certainly a substantial part of Leonardo's painting.

The most useful exceptions to copyright are called 'fair dealing'. To qualify as fair dealing, what you do must be fair to the copyright owner, which means, among other things, not using too much and not damaging his commercial interests or his normal use of the work, and you must acknowledge the author and give the title of the work. Also, what you do must fall into one of the following categories:

- Private study - this means study for your own benefit, though the general knowledge gained might be useful to you for other purposes.

- Non-commercial research - this might include research for a non-commercial publication (one which will not make any money), such as some academic research. However, it will not include anything for which you or anyone else will receive a financial or equivalent return, and nor will it include research for a body (even a charity) which will use it to receive a return.
- Criticism or review - such as a review of a book. The criticism or review does not have to be favourable, but it must be of a work or works (not necessarily the one quoted) and the comments made must be much more extensive than the quotation.
- Current news reporting - such as quotation in a newspaper or on the radio. However, you may not use a photograph for this purpose.

There are special exceptions to cover educational uses, but they are quite limited and most educational use is authorised by licensing. The most helpful exception allows multiple copying of a work for the purposes of an examination (except that no copy of a musical work may be used for a performance for an examination). Examination is normally taken to include use in theses and dissertations, but the exception does not cover publication or use of the thesis after it has been examined.

There are special exceptions covering works in libraries and archives:

- A librarian may make and supply a single copy of a single article from a journal or a reasonable proportion of a published edition of a literary, dramatic or musical work, together with any illustrations, for the purposes of private study or non-commercial research. A special declaration form must be completed by the user, and is available from staff in The National Archives if required.
- A librarian or archivist may make and supply a single copy of the whole or part of an unpublished literary, dramatic or musical work in the collection, together with any illustrations, for the purposes of private study or non-commercial research. A special declaration form must be completed by the user. In The National Archives a form must be

completed for copies of non-public records, and is available from the document copying counter.

- Any public record available to the public in The National Archives, the National Archives of Scotland, the Public Record Office of Northern Ireland or a place of deposit of public records may be copied and the copy may be supplied to any person.

Note that the first two of these exceptions do not allow copying of any artistic works, except those which are illustrations to literary, dramatic or musical works which are also being copied. For more information on these two exceptions, see our guide, [Using materials from The National Archives](#). Note also that the exceptions cover only the making and supply of a copy. The researcher is responsible for securing any permission required for the use of the copy.

There is a special exception that permits the copying and first publication of an unpublished literary, dramatic or musical work, together with any illustrations (but again not an artistic work alone). The exception applies when:

- the work is available to the public in an archive or similar institution
- the work is at least 100 years old
- the work's author has been dead for at least 50 years
- the present copyright owner is unknown to the publisher

An anonymous literary, dramatic, musical or artistic work or a film may be published without permission if it is reasonable to assume that the author has been dead for at least 70 years. This exception does not apply to works in Crown copyright, nor to works by known authors but whose copyright owner is unknown.

7. What is Crown copyright?

A work is Crown copyright if it was:

- created or published at any date before 1 June 1957 by or under the direction or control of the Crown

- created or first published between 1 June 1957 and 31 July 1989 by or under the direction or control of the Crown
- created on or after 1 August 1989 by an officer or servant of the Crown in the course of his duties

Crown copyright applies, for instance, to works created by:

- the Queen and all earlier monarchs, although special arrangements apply when Her Majesty or her predecessors were acting in a purely private capacity
- civil servants, diplomats, colonial officials and members of the armed forces when acting in an official capacity
- ministers of the Crown when acting as such, but not when acting as constituency MPs or party members
- government departments (such as the Home Office) and agencies (such as Ordnance Survey)
- people and bodies commissioned by or working for the Crown and under its direction or control before 1 August 1989 (such as the Tithe Commissioners)

It therefore applies to many records held in The National Archives, such as letters and reports by Crown servants, census returns, records of service in the armed forces, records created by the law courts, transportation records, war diaries and Cabinet minutes.

Crown copyright applies to any work first published by the Crown between 1 June 1957 and 31 July 1989, no matter who created it or when it was created.

Crown copyright applied to any work published by the Crown before 1 June 1957 even if it had been previously published by someone else. Because Crown copyright has a shorter duration than non-Crown copyright (see [section 11](#) and [section 12](#)), copyright in all such works has now expired.

Crown copyright does not apply, for instance, to letters and papers received by the Crown but written by members of the public; reports, letters and invoices from private companies and bodies; or materials from overseas governments (except those in some Commonwealth countries).

The standard duration of Crown copyright is for 50 years after the year of publication or for 125 years after creation. Unpublished Crown copyright literary, dramatic and musical works will however be in copyright until 2039 at the earliest. It is in the nature of archival records that the great majority are unpublished. A large proportion of records in The National Archives are unpublished Crown copyright literary works, but there are other variations (see [section 12](#)).

8. Related rights: moral rights and database right

The author of a literary, dramatic, musical or artistic work, and the principal director of a film, who has asserted his or her right to be acknowledged as the author, has the right (with some exceptions) to be acknowledged as such if the work is published or (for artistic works) exhibited. This right lasts until copyright expires.

The author of a literary, dramatic, musical or artistic work, and the principal director of a film, has the right (with some exceptions) to object to derogatory treatment of the work which distorts or mutilates it or otherwise prejudices his or her honour or reputation. This right lasts until copyright expires.

Any person has the right not to have a literary, dramatic, musical or artistic work or a film wrongly attributed to him or her. This right lasts until 20 years after the person's death.

The maker of a database (the person or body who has initiated its creation and invested in it) is entitled to a database right which prevents unauthorised copying and publication of a substantial part of the contents. However:

- the right protects the investment in databases only where the investment is in actually collecting, verifying or presenting the contents of the database. Any investment in the creation of data does not count. In effect, databases are covered only if they consist of data gathered in from external sources for the purpose of putting the data into the database.
- a substantial part of a database is measured by the investment required to collect, verify and present that part in relation to the investment required to produce the whole database. The taking of only a few entries is unlikely to be use of a substantial part of a large database.

Database right lasts for 15 years from the date of creation, but the 15-year period starts again if there is substantial new investment.

9. Bibliography

If you want to learn more about copyright, you may find the following titles useful

- ▶ Tim Padfield, [Copyright for archivists and records managers](#) (fourth edition, Facet 2010)
- ▶ Graham P Cornish Copyright: interpreting the law for libraries, archives and information services, (fifth edition, Facet 2009)
- ▶ W Cornish, D Llewelyn, T Aplin, Intellectual property: patents, copyrights, trade marks and allied rights (seventh edition, Sweet and Maxwell 2010)
- ▶ K Garnett, G Davies and J Rayner James, Copinger and Skone James on copyright (15th edition, Sweet and Maxwell 2009)
- ▶ H Laddie, P Prescott and M Vitoria, The Modern Law of Copyright and Designs (fourth edition, Butterworths, 2011)

10. Contact details

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Section 11 : Duration of copyright – literary, dramatic, musical and artistic works (excluding Crown copyright)



